

In Applicant's experience, when modifications were requested of laminators to provide for a pre-set gap, applicant was openly challenged on the basis that the layers of the laminate will not be adhered in areas of the sheet unless the rollers are free to press on the entire sheet by riding on the sheet.

(Examiner's Item 2)

Examiner's rejection of claims 1 and 7 under 35 U.S.C. § 103(a) relying on Dontula (U.S. Patent No. 6,447,967) in view of Andersson (U.S. Patent No. 4,657,614) and the other art is traversed. Reconsideration and allowance of the claims is requested.

Dontula, and the references relied upon by the Examiner, do not appreciate or teach nips with preset gaps. Particularly in the plastics laminating industry, a nip is understood as a pair of opposing rolls applying pressure at the point of contact.

Examiner misconstrues the teachings of the art, none of which teach pre-set gaps in the plastic laminating industry. Examiner also misconstrues Applicant's laminate. The main components of Applicant's laminate are not a rigid foam.

Applicant's foam is described as preferably a pre-foamed low density polyethylene foam. Applicant's foam is compressible. The compressibility is what gives rise to the unique handling challenges for forming the laminate of the invention.

Examiner rejects claims 1 and 7 under 35 U.S.C. § 103(a) relying on Dontula et al. in view of Andersson and "the admitted prior art." This rejection is traversed. For the record, Applicant has filed information disclosure statements and identified "relevant art" for purposes of full disclosure, but Applicant expressly does NOT concede that the references are prior art to the claimed invention. The new ground of rejection, Van Handel, in particular, is prima facie not prior art. The references applicant brought to examiner's attention for completeness of disclosure, are not admitted prior art. Moreover, particularly as is discussed later herein with regard to item 4 of the office action, and specifically, Van Handel U.S. Patent No. 6,536,657 is not prior art and is not a proper reference to reject this application as the priority date (provisional application) of that document Van Handel is a misprint, and is later than the June 13, 2001 priority date of this application.

(Examiner's Item 3)

Examiner rejects claims 1-3 and 7 under 35 U.S.C. § 103(a) as unpatentable over Digiesi (CA 2,291,607) in view of Andersson and Dontula et al. Dontula is a conventional lamination technique involving melting a polyethylene between two sheets and pressing to laminate together the layers in a nip.

Dontula is silent as to any type of pre-set gap. Dontula merely rides on the work piece to press the layers together. As examiner also notes, Dontula further is silent than any roll is chilled. Examiner notes it would be obvious to cool one of the rollers to solidify the adhesive. Applicant cools one of the rollers for a different reason, to retain the substantially uniform and retained caliper of the foam.

Dontula teaches reduction of density and not density increase. In any event Dontula clearly does not teach retention of substantially uniform and retained caliper of the laminate. Dontula increases the caliper since Dontula reduces density.

As examiner observes, Digiesi does not teach how lamination is effected. Furthermore Digiesi laminates foam to a paper-based cup, or alternatively sandwiches the foam between double walls of paper. Digiesi does not teach the method steps of the invention. Digiesi does not teach using compressible foam, does not teach using a molten polyolefin directed between the paper stock and compressible foam, does not teach use of a nip with preset gap, and does not teach forming a compressible laminate of substantially uniform and retained caliper.

(Examiner's Item 4)

Examiner rejects claims 4, 6, 8-10, and 12-14 relying on Digiesi, Andersson and Dontula and further in view of Van Handel (U.S. Patent No. 6,536,657).

This rejection is traversed as untenable and in error and requested withdrawn. Reconsideration is requested. Applicant's June 18, 2001 priority date predates the Van Handel reference.

Van Handel U.S. Patent No. 6,536,657 is not available as a reference against this application as a matter of law. Therefore the rejection of claims 4, 6, 8-10 and 12-14 under 35 U.S.C. § 103(a) assembled by combining Digiesi, Andersson, Dontula and further in view of Van Handel (U.S. Patent No. 6,536,657) is improper and must be withdrawn.

Van Handel's earliest priority date for provisional application no. 60/306,757 is a misprint. Public PAIR identifies the filing date of 60/306,757 as July 20, 2001. As printed, provisional 60/306,757 would be more than a year before the filing of U.S. Serial No. 10/199,211 on July 19, 2002 and is clearly erroneous. Van Handel's earliest priority date for the provisional application is at best only July 20, 2001 and not January 8, 2001 as printed.

(If the January 8, 2001 date were to apply, then a hiatus in continuity has occurred and the priority claim is facially invalid under 15 U.S.C. § 103(e)(1). Van Handel's priority date then is his U.S. filing date of July 19, 2002. Under either analysis, Van Handel is prima facie not prior art to the instant application, and cannot serve as a basis of rejection of claims 4, 6, 8-10 and 12-14.)

Given the Public PAIR date of July 20, 2001 (copy enclosed) for Van Handel 60/306,757, then examiner's attention is directed to the first sentence of the instant application and Applicants' paragraph [0003]. Applicant's priority date traces to June 18, 2001 based on Serial No. 60/298,386 which predates Van Handel.

None of Digiesi, Andersson or Dontula et al. teach use of a heat shrinkable polymer as a component of the laminate of substantially retained and uniform caliper. As examiner admits, none of these references teach applying a heat-shrinkable layer to the inside foam layer of the container of Digiesi, Andersson, and Dontula et al.

Van Handel as explained above is pre-dated by applicant's priority date of June 18, 2001 tracing to U.S. Serial No. 60/298,386.

With the elimination of Van Handel as being an improper reference, examiner's rejection of claims 4, 6, 8-10 and 12-14 must be withdrawn, or is overcome.

(Examiner's Item 5)

Examiner rejects claim 5 under 35 U.S.C. § 103(a) over the references applied to claim 4, further in view of Geddes et al. (U.S. Patent No. 6,030,476). This rejection is traversed, and reconsideration requested.


Claim 5 is dependent on claim 4 which further limits what is now amended claim 1. To the extent that claim 1 and 4 are patentable, claim 5 would be patentable.

For all the reasons articulated with regard to claims 1 and 4, then claim 5 further narrowing the subject matter is likewise patentable.

Early action allowing all claims is requested.

If it would be helpful to resolution of any issues, the undersigned can be reached at 920-991-8661.


Respectfully submitted,


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CERTIFICATE OF MAILING

I certify that this correspondence is being deposited with the US Postal Service with sufficient postage on February 17, 2006 addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450.


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